

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks. Applicants respectfully thank the Examiner and her supervisor for holding a personal interview with Applicants' representative on July 16, 2009. It is noted that during the interview Applicants' representative demonstrated a physical embodiment of the claimed invention of claim 1. The Examiner and her supervisor's kind suggestions have been incorporated into this response.

I. CLAIM STATUS AND AMENDMENTS

Claims 1-5 and 7-10 were pending in this application when last examined.

Claims 1-5 and 7-10 were examined on the merits and stand rejected.

Claim 5 is cancelled without prejudice or disclaimer thereto. Applicants reserve the right to file a Continuation or Divisional Application on any cancelled subject matter.

Claim 1 is amended to incorporate the limitations of claim 5. Claim 1 is further amended as supported by page 21, lines 20-23, of the specification as filed.

No new matter has been added.

II. ANTICIPATION/OBVIOUSNESS REJECTIONS

In item 6 on pages 3-8 of the Office Action, claims 1-5 and 7-10 were rejected under 35 U.S.C. § 103(a) as unpatentable over Miyamoto (US 6,197,574) in view of Nason (US 5,266,266) and further in view of Matkovich (US 4,731,061). Applicants respectfully traverse this rejection as applied to the amended claims.

In particular, it is noted that claim 1 is amended to clarify that there are two partition members that define the spaces for the two liquids. Further, claim 1 is amended to clarify that the stick-like protrusion provided for the first opening-forming means is movably fitted into the concave of the second partition member so that if external force is applied to the cap assembly in a direction approximately perpendicular to the axis of the detector then an opening will be formed in the first liquid chamber prior to an opening being formed in the second liquid chamber.

As demonstrated during the personal interview, such feature ensures that the culture medium in the first liquid chamber enters the hollow container for culturing the bacteria prior to the release of the disinfectant from the second liquid chamber. Such feature is highly advantageous since release of disinfectant prior to culturing in the hollow container will render the device inoperative.

As apparently agreed upon during the interview, such concave feature for controlling the release from the first liquid container prior to the second liquid container is not taught or suggested by the cited art. Thus, this rejection is untenable and should be withdrawn.

Further, Applicants note that Miyamoto et al. (US 6,197,574) merely disclose chambers for liquid wherein each chamber is a bag-shaped member.

In contrast, each chamber for liquid in connection with the instant bacteria detector is formed by partition with a second partition member (i.e., the hollow space of the cap assembly is divided into the first chamber for liquid and the second chamber for liquid by only one partition member).

The cap assembly of the instant bacteria detector is arranged in such a configuration that the first liquid contained in the first chamber for liquid can touch both the first partition member (bottom side) and the second partition member (top side) when the instant bacteria detector is turned upside down.

In the instant bacteria detector, the first chamber for liquid and the second chamber for liquid are dependent on each other in terms of space, but do not require a bag-shaped member as required in Miyamoto et al.

In addition, the first chamber for liquid and the second chamber for liquid can be formed in a very simple manner.

Furthermore, an opening can be easily formed by applying an external force to an opening-forming part provided at a portion of the partition member.

Applicants note Nason fails to teach or suggest two liquid chambers separated by a partition. Thus, Nason fails to remedy the deficiencies of Miyamoto.

Thus, for the above-noted reasons, this rejection is untenable and should be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

Toshihiko MIYAMOTO et al.

/William R. Schmidt, II/

By: _____

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